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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-----------------------------|------------------------|
| 10/711,961 | 10/15/2004 | Marty Williams | GearCrate | 5960 |
| 23217 | 7590 | 02/07/2008 | | |
| GLENN L. WEBB GLENN L. WEBB P.C. P.O BOX 951 CONIFER, CO 80433 | | | EXAMINER GROSSO, HARRY A | |
| | | | ART UNIT 3781 | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/711,961

Applicant(s)

WILLIAMS, MARTY

Examiner

Harry A. Grosso

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/15/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the packaging of the first set of structural tubes and beams (claim 20) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 20 recites a method that includes packaging said unassembled first set of structural tubes and said unassembled first set of beams for shipment. This is not described in the disclosure in such a way as to make clear what is intended.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-4, 7-13 and 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson (3,363,800).

6. Regarding claims 1 and 10, Anderson discloses a crate system with a first set of structural tubes, (28, Figures 1-3, column 2, lines 30-51), a first set of beams (18) and a fastening mechanism (44, column 3, lines 1-16).

7. Regarding claims 2 and 11, Anderson discloses a second set of structural tubes (30), a second set of beams (18), a securing mechanism (44) and a securing mechanism (34, column 2, lines 52-55 and 16, column 3, lines 1-16) for securing the first set of tubes to the second set of tubes

8. Regarding claims 3 and 12, Anderson discloses each of the first set of tubes (28) is U shape.

9. Regarding claims 4 and 13, Anderson discloses the first set of structural beams (28) is U shaped and the first set of beams include an open slot, the hole in which the screw (44) is engaged.

10. Regarding claims 6 and 15, Anderson discloses the first set (28) of structural tubes is U shape and the fastening mechanism secures the first set of tubes in an upright position spaced from each other on the beams.

11. Regarding claims 7 and 16, Anderson discloses a second set of tubes (30) and beams (18) and a second fastening mechanism securing the tube to the beams in a spaced relationship. Anderson also discloses a securing mechanism for securing the first and second assembled sets of tubes comprising at least one beam (16) extending the length of the crate, the length dimension being relative, depending on the orientation of the crate and definable by the user.

12. Regarding claims 8 and 17, Anderson discloses and provides all of the required structure as discussed in the previous paragraphs.

13. Regarding claims 9 and 18, Anderson discloses and provides all of the required structure as discussed in the previous paragraphs.

14. Claims 10, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Huber (3,178,216).

15. Regarding claim 10, Huber provides a crate system with a first set of members (16) which can be seen to be tubular in Figure 6, and a first set of set of beams (15) and a fastening mechanism, the corner posts, so that the tubular members (16) are secured together in a space relationship by the beams.

16. Regarding claim 19, Huber discloses the crate is disassembled by unfastening the first set of tubes from the beams (column 5, lines 4-20).

17. Regarding claim 20, Huber discloses packaging the crate for shipment, as best understood (Figures 7-9, column 5, lines 4-20).

18. Claims 1 and 10 are rejected under 35 U.S.C. 102(a or e) as being anticipated by Angeletti et al (7,270,236) (Angeletti). Angeletti discloses a crate system with a first set of structural tubes (916, Figures 1 and 9), a first set of beams (134, 136) and a first fastening mechanism (908) to secure the tubes in a spaced relationship.

Claim Rejections - 35 USC § 103

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. Claims 4, 5, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Angeletti in view of Attwood (2,345,650). Angeletti disclose the invention with the beams having ratchet notches and the fastening mechanism having a

pawl for locking the mechanism in place at variable locations on the beams. Angeletti does not teach the use of a slot in the beam and a spring nut. Attwood discloses the use of a slotted beam and spring nuts for securing one component to another in a manner that allows easy movement of one component relative to the other by any amount desired. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a slotted beam and spring nuts as disclosed by Attwood in the crate system disclosed by Angeletti to provide a system that would allow easy movement of the fastening mechanism on the beam to any location desired without the limitation of having to align a pawl on the mechanism with ratchet notches on the beam.

Conclusion

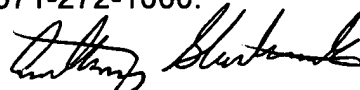
Any inquiry concerning this communication or earlier communications from the examiner should be directed to HARRY A. GROSSO whose telephone number is (571)272-4539. The examiner can normally be reached on Monday through Thursday from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Anthony Stashick
Supervisory Patent Examiner
Art Unit 3781

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